

SDNY PRO SE  
2021 JAN 26 PM 3:37

**U.S. DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

<b>SWEIGERT</b>	<b>CIVIL CASE #:</b>
<b>V.</b>	<b>1:18-CV-08653-VEC</b>
<b>GOODMAN</b>	<b>JUDGE VALERIE E. CAPRONI</b>

**PLAINTIFF'S NOTICE OF MOTION TO COMPEL DISCOVERY WITH**  
**FIRST REQUEST FOR DISCOVERY SANCTIONS**

**MAY IT PLEASE THE COURT**, as of Friday, January 22, 2021 NO discovery documents  
(ordered by the magistrate via **ECF No. 173**) have been propounded upon the Plaintiff.

The contents of that ORDER is hereby referenced as if fully restated.

A certificate of service is included on the last page of this document. So sworn under oath.

Signed this 22 day of January, 2021.

**D. G. SWEIGERT, C/O**  
**GENERAL DELIVERY**  
**ROUGH AND READY, CA 95975**  
[Spoliation-notice@mailbox.org](mailto:Spoliation-notice@mailbox.org)

**1.22.21**  
**D. S. nt**

**MEMORANDUM OF LAW**

## **TABLE OF CONTENTS**

<b>TABLE OF AUTHORITIES .....</b>	<b>4</b>
<b>BACKGROUND STATEMENT .....</b>	<b>5</b>
<b>FACTUAL ALLEGATIONS .....</b>	<b>5</b>
<b>LAW AND ARGUMENT .....</b>	<b>6</b>
<b>CONCLUSION .....</b>	<b>8</b>
<b>CERTIFICATE OF SERVICE .....</b>	<b>10</b>
<b>EXHIBITS .....</b>	<b>11</b>

## TABLE OF AUTHORITIES

### Cases

<i>Bambu Sales v. Ozak Trading, Inc.</i> , 58 F.3d 849 (2d Cir. 1995).....	8
<i>Charron v. Meaux</i> , 20 Fed. R. Serv. 2d 724 (S.D.N.Y. 1975).....	7
<i>National Hockey League, Inc. v. Metropolitan Hockey Club, Inc.</i> , 427 U.S. 639, rehearing denied, 429 U.S. 874 (1976) .....	8

### Rules

Fed. R. Civ. Proc. Rule 37(b)(1).....	7
Rule 37 .....	6
Rule 37(a) and 37(b) of the Fed. R. Civ. Proc. ....	5
Rule 37(b)(2)(A)(v) and (vi).....	7
Rule 37(b)(2).....	8

### **BACKGROUND STATEMENT**

The Defendant was ordered to provide a response (under oath) to interrogatories carefully selected by the Court (see ORDER, ECF No. 173). See para. (1)(a) thru (e) of said ORDER. Para. (2) of said ORDER required the Defendant to provide the Plaintiff certain discovery materials by January 15<sup>th</sup>, 2021.

The Plaintiff has included an assertion (under oath), with this pleading, that NO documents were received at the Plaintiff's address in Northern California from the Defendant.

This Court should consider a reasonable sanction, up to and including a DEFAULT judgment for the continued misbehavior of the Defendant to flaunt the Court's orders and rules.

The Plaintiff demands that this Court issue a sanction against the Defendant as a deterrent to this type of misbehavior in accordance with Rule 37(a) and 37(b) of the Fed. R. Civ. Proc.

### **FACTUAL ALLEGATIONS**

Attached as **EXHIBIT ONE** are copies of all the recent Court documents received by the Plaintiff at this address to include envelopes with this Court's stationary postmarked 11/06/2020, 11/09/2020, 12/01/2020, 12/08/2020, 12/14/2020, 12/28/2020, 12/29/2020, 1/05/2021 and 1/11/2021.

Contained as **EXHIBIT TWO** is a copy of a postal money order, purchased at the Post Office used by the Plaintiff, on 1/22/2021 at 2:10 PM. As of this date, the Plaintiff has affirmed under oath, he has received no pleadings, documents, or discovery at the Plaintiff's postal address from the Defendant.

Additionally, the Defendant has not served his pleading on the Plaintiff. This is confirmed as the Defendant has not filed a "CERTIFICATE OF SERVICE" with his pleadings, stating pleadings have been served upon the Plaintiff, for over a year in this action.

As indicated in **EXHIBIT THREE**, Mr. Goodman is no stranger to the threat of sanctions by a federal judge for standing the decorum of a federal court on its ear. Mr. Goodman garnered a reputation as a foot-dragging litigant in the federal court that issued the ORDER depicted as **EXHIBIT THREE**. In fact, the federal judge had to resort to ordering Mr. Goodman to overnight mail, or express deliver, discovery documents promised at a hearing and never delivered.

As shown in **EXHIBIT FOUR**, the federal judge stated (in relevant part):

"Considering the Parties continued failure to follow Federal Rules, the Local Rules, and this Court's Orders, the Court will require the Parties to appear before the Court for a hearing on July 25, 2020, at 2:00 p.m. to Show Cause why sanctions should not issue. Mr. Biss, Mr. Steele, and Mr. Goodman shall appear in person." **EXHIBIT FOUR** (page 17)

"The Court will require Mr. Biss, Mr. Steele, and Mr. Goodman to SHOW CAUSE why sanctions should not issue during a hearing on July 15, 2020 at 2:00 p.m. . . ." **EXHIBIT FOUR** (page 18)

### **LAW AND ARGUMENT**

The Defendant is not some *pro se* babe in the woods that does not understand discovery issues. The Defendant's prior litigation in the Eastern District of Virginia resulted in many discovery related docket entries.

Rule 37 provides this Court with the authority to regulate the efficient flow of discovery matters. It is especially noteworthy that the Defendant was the subject of a specific discovery Court ORDER (ECF No. 173) which he has ignored.

Mr. Goodman has ignored other such rules of the Court, for instance, the Defendant has failed to comply with the requirement to file a "CERTIFICATE OF SERVICE" indicating he has served a copy of his pleadings on the Plaintiff.

Mr. Goodman obviously believes that the Southern District of New York is no better in enforcing discovery orders than the federal court in the Eastern District of Virginia (**EXHIBITS THREE and FOUR**).

Meanwhile, Defendant feigns innocence as a *pro se* litigant resulting in lavish extensions of procedural deadlines by this Court.

At the very least, this Court should note the seriousness of the Virginia federal court order and that court's recognition of the Defendant's discovery foot-dragging, requiring that court to conduct a Show Cause hearing as to why Mr. Goodman should not be held in contempt and receive sanctions.

Likewise, this Court should consider a Show Cause hearing for the Defendant's flaunting of the magistrate's discovery ORDER (ECF. No. 173).

Where the court "orders a deponent to be sworn or to answer a question and the deponent fails to obey," the deponent may be held in contempt. Fed. R. Civ. Proc. Rule 37(b)(1). The court retains the right to enter a contingent order, which warns the defaulting party that if that party does not comply with the discovery order entered by the court within a specified time then certain sanctions will be imposed on them. *Charron v. Meaux*, 20 Fed. R. Serv. 2d 724 (S.D.N.Y. 1975)

Rule 37(b)(2)(A)(v) and (vi), state that where a party fails to obey a discovery order, the court may issue an order "dismissing the action or proceeding in whole or in part" or "rendering a default judgment against the disobedient party."

Other remedies specifically provided for within Rule 37 are as follows: an order directing that matters embraced in the order or other designated facts be taken as established (Fed. R. Civ. P. 37(b)(2)(A)(i)); an order prohibiting the disobedient party from supporting or opposing designated claims or defenses (Fed. R. Civ. P. 37(b)(2)(A)(ii)); an order striking pleadings (Fed. R. Civ. P. 37(b)(2)(A)(iii)); an order staying proceedings until the court's discovery order is obeyed (Fed. R. Civ. P. 37(b)(2)(A)(iv)); and a finding of contempt of court (except for failure to obey an order to submit to a physical or mental examination) (Fed. R. Civ. P. 37(b)(2)(A)(vii)).

In *Bambu Sales v. Ozak Trading, Inc.*, 58 F.3d 849 (2d Cir. 1995) the Second Circuit affirmed a \$280,000 default judgment against a litigant for failure to comply with a discovery order pursuant to Rule 37(b)(2).. The Second Circuit emphasized its policy that discovery orders are meant to be followed and that such "potent medicine" is appropriate against a party who "flouts such orders".

As articulated in *National Hockey League, Inc. v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639, rehearing denied, 429 U.S. 874 (1976), a court's order for sanctions or outright dismissal (DEFAULT) is a matter reviewed only for the judge's abuse of discretion.

### CONCLUSION

As of late this Court has extended the Defendant an over-abundance of courtesies and tolerance. Enough is enough. It is time for "tough love" so that the Defendant may finally respect the authority of this federal court.

This Court should issue a DEFAULT judgement against the Defendant in the sum of \$75,000.01 and ORDER that the practical effects ~~of~~ the Plaintiff's pending motion for Preliminary Injunctive

D.S.  
1.22.21 OF



Relief be fully carried out, requiring the Defendant to remove the Plaintiff's name, photograph and persona from any podcast video creations proffered as "news" by the Defendant.

**AFFIRMATION**

The undersigned hereby swears, under oath, that he has received no articles in the U.S. Mail from the Defendant between November 6, 2020 to the present (January 22, 2021). This includes the discovery materials articulated in the magistrate's order (ECF No. 173).

So sworn under oath.

**22**  
Signed this \_\_\_\_ day of January, 2021.

**D. G. SWEIGERT, C/O  
GENERAL DELIVERY  
ROUGH AND READY, CA 95975  
Spoliation-notice@mailbox.org**

**1.22.21**

**D. S. J.**

**CERTIFICATE OF SERVICE**

I HEREBY ATTEST that a true copy of the attached pleadings has been sent to the following addressees on the **22** day of January 2021 via prepaid First Class U.S. Mail. So sworn under oath.

**Jason Goodman, CEO  
Multimedia Systems Design, Inc.  
252 7<sup>th</sup> Avenue, Apart. #6S  
New York, NY 10001**

**PRO SE OFFICE, #200  
U.S. District Court  
500 Pearl Street  
New York, New York 10007-1312**

**Catherine O'Hagan Wolfe  
Clerk of the Court  
Second Circuit Court of Appeals  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007**

**D. G. SWEIGERT**

**D. G. SWEIGERT, C/O**

**Pro se non-attorney**

**GENERAL DELIVERY**

**ROUGH AND READY, CA 95975**

**Spoliation-notice@mailbox.org**

**1.22.21**

## EXHIBITS

I hereby affirm that the attached exhibits are true and correct documents of the original source documents.

So sworn under oath.

Signed this **22** day of January, 2021.

**D. G. SWEIGERT, C/O  
GENERAL DELIVERY  
ROUGH AND READY, CA 95975  
Spoliation-notice@mailbox.org**

**1.22.21**

**D. S. J.**

**EXHIBIT ONE**

COURT  
NEW YORK  
STATES DISTRICT COURT  
NEW YORK, NY 10007

D George Sweigert  
c/o General Delivery  
Rough and Ready, CA 95975

CLERK OF COURT  
STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
COURTHOUSE - 500 PEARL STREET  
NEW YORK, NY 10007

OFFICIAL BUSINESS

neopost  
12/29/2020  
US POSTAGE \$00.50  
ZIP 10007  
041L112317

CLERK OF COURT  
STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
COURTHOUSE - 500 PEARL STREET  
NEW YORK, NY 10007

OFFICIAL BUSINESS

neopost  
01/05/2021  
US POSTAGE \$00.50  
ZIP 10007  
041L1123177

CLERK OF COURT  
STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
COURTHOUSE - 500 PEARL STREET  
NEW YORK, NY 10007

OFFICIAL BUSINESS

neopost  
12/14/2020  
US POSTAGE \$00.50  
ZIP 10007  
041L1123177

12/19

D George Sweigert

ES DISTRICT COURT  
 STRICT OF NEW YORK  
 SE - 500 PEARL STREET  
 ORK, NY 10007

AL BUSINESS

neopost  
 12/08/2020

US POSTAGE

FIRST-CLASS MAIL

\$00.50<sup>0</sup>



CLERK

ED STATES DISTRICT COURT  
 IERN DISTRICT OF NEW YORK  
 K MOYNIHAN UNITED STATES COURTHOUSE  
 JRTHOUSE - 500 PEARL STREET  
 NEW YORK, NY 10007

neopost  
 12/01/2020

US POSTAGE

FIRST-CLASS MAIL

\$00.50<sup>0</sup>



ZIP 10007  
 041L11231778

12/1

CLERK

ED STATES DISTRICT COURT  
 TERN DISTRICT OF NEW YORK  
 CK MOYNIHAN UNITED STATES COURTHOUSE  
 URTHOUSE - 500 PEARL STREET  
 NEW YORK, NY 10007

NEW YORK NY 100

9 NOV 2020 PM 6 L

neopost  
 11/09/2020

US POSTAGE

FIRST-CLASS MAIL

\$00.50<sup>0</sup>



ZIP 10007  
 041L11231778

OFFICIAL BUSINESS

CLERK

ITED STATES DISTRICT COURT  
 THERN DISTRICT OF NEW YORK  
 RICK MOYNIHAN UNITED STATES COURTHOUSE  
 OURTHOUSE - 500 PEARL STREET  
 NEW YORK, NY 10007

neopost  
 11/06/2020

US POSTAGE

FIRST-CLASS MAIL

\$00.50<sup>0</sup>



neopost  
 01/11/2021

US POSTAGE

FIRST-CLASS MAIL

\$00.50<sup>0</sup>



ZIP 10007  
 041L11231778

11/15

OF COURT  
 S DISTRICT COURT  
 TRICT OF NEW YORK  
 E - 500 PEARL STREET  
 RK, NY 10007

AL BUSINESS

NOVA 220

6 NOV 2020 PM 4 L

Hasier

11/06/2020

US POSTAGE

FIRST-CLASS MAIL

\$00.50<sup>0</sup>



ZIP 22314  
 011D11643117

ICE OF  
 DISTRICT COURT  
 RICT OF VIRGINIA  
 OUSE SQUARE  
 IRGINIA 22314-5798

AL BUSINESS

D. George Sweigert  
 c/o General Delivery

11/12

**EXHIBIT TWO**



ROUGH AND READY  
14485 ROUGH AND READY HWY  
ROUGH AND READY, CA 95975-9998  
(800)275-8777

01/22/2021 02:10 PM

Product	Qty	Unit Price	Price
Money Order			\$1.00
Serial#: 26355312371			
Money Order Fee			\$1.25
Total			\$2.25

Grand Total: \$2.25

Debit Card Remitted \$2.25

Card Name: VISA  
Account #: XXXXXXXXXXXXXXX  
Approval #  
Transaction #: 372  
Receipt #: 007739  
Debit Card Purchase: \$2.25  
AID: A0000000980840  
AL: US DEBIT  
PIN: Verified

\*\*\*\*\*  
USPS is experiencing unprecedented volume increases and limited employee availability due to the impacts of COVID-19. We appreciate your patience.  
\*\*\*\*\*

Preview your Mail  
Track your Packages  
Sign up for FREE @  
[www.informedelivery.com](http://www.informedelivery.com)

All sales final on stamps and postage.  
Refunds for guaranteed services only.  
Thank you for your business.

Tell us about your experience.  
Go to: <https://postalexperience.com/Pos>  
or scan this code with your mobile device,



or call 1-800-410-7420.



POSTAL SERVICE RECEIPT

SEE BACK OF THIS RECEIPT  
FOR IMPORTANT CLAIM  
INFORMATION  
NOT  
NEGOTIABLE

Pay to  
Address

KEEP THIS  
RECEIPT FOR  
YOUR RECORDS

Serial Number  
26355312371

Year, Month, Day  
2021-01-22

Post Office  
959750

Amount  
\$1.00

Clerk  
08



POSTAL MONEY ORDER

U.S. Dollars and Cents

Serial Number  
26355312371

\$1.00

Pay to

Clerk  
08

Address

Memo

© 2009 United States Postal Service. All Rights Reserved.

000000800 21

NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS



**EXHIBIT THREE**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**ROBERT DAVID STEELE, *et al.*,**

**Plaintiffs,**

**v.**

**Civil Action No. 3:17cv601**

**JASON GOODMAN, *et al.*,**

**Defendants.**

**ORDER**

This matter comes before the Court *sua sponte*. Due to the circumstances surrounding COVID-19 and the recent restrictions New York Governor Andrew Cuomo announced regarding travel to and from the Commonwealth of Virginia, the Court ORDERS Plaintiff Robert David Steele, Counsel for Plaintiffs Steven Scott Biss, and *pro se* Defendant Jason Goodman to appear at the July 27, 2020 Show Cause Hearing by Zoom.<sup>1</sup> The July 27, 2020 Show Cause Hearing SHALL commence at 9:30 a.m.

The Court reminds Mr. Goodman and all Parties that consistent with Local Civil Rule 83.3 for the Eastern District of Virginia and General Order 2020-11, that

[t]he taking of photographs and operation of tape recorders in a courtroom or its environs, and radio or television broadcasting from a courtroom or its environs during the progress of or in connection with judicial proceedings, including proceedings before a magistrate judge or bankruptcy judge, whether or not Court is actually in session, is prohibited.

E.D. Va. Loc. Civ. R. 83.3. Under no circumstances shall Mr. Goodman or any Party record,

---

<sup>1</sup> While the Court would normally wait for a motion to allow the Parties to appear remotely, the Court notes that the United States District Court for the Eastern District of Virginia has issued several General Orders severely limiting interstate travel for hearings. Considering these General Orders, and the delay it might take for Mr. Goodman, who files by U.S. Mail, to file a motion with the Court, the Court will authorize all Parties to appear by Zoom.

tape, or otherwise create a secondary record of the July 27, 2020 Show Cause Hearing. Failure to abide by this Order or Local Civil Rule 83.3 SHALL result in sanctions.

The Court also ORDERS both Mr. Goodman and Mr. Biss to file a certification with the Court confirming that they have provided to the opposing Party (1) all documents that they submitted to the Court at the July 15, 2020 Show Cause Hearing and (2) any supplemental documentation provided to the Court at any time thereafter, including the documentation Mr. Goodman provided to the Court by mail on July 20, 2020. Both Parties represented during the July 15, 2020 Show Cause Hearing that they would do so. If Mr. Biss has not received those supplemental documents, Mr. Goodman SHALL send them to Mr. Biss by overnight mail. The Parties SHALL file their certification by July 24, 2020.

It is SO ORDERED.

Date: July 22, 20  
Richmond, Virginia

  
\_\_\_\_\_  
M. Harshbarger  
United States District Judge

**EXHIBIT FOUR**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**ROBERT DAVID STEELE, et al.,**

**Plaintiffs,**

**v.**

**Civil Action No. 3:17cv601**

**JASON GOODMAN, et al.,**

**Defendants.**

**MEMORANDUM OPINION**

This matter comes before the Court on four motions:

- (1) *Pro Se* Defendant Jason Goodman's Motion to Disqualify Counsel for Plaintiff (the "Motion to Disqualify"), (ECF No. 165);
- (2) Plaintiffs Robert David Steele and Earth Intelligence Network ("EIN") (collectively, "Plaintiffs") Motion *in Limine*, (ECF No. 171);
- (3) Defendant Patricia A. Negron's Request for Guidance, or in the Alternative, a Motion for Extension of Time (the "Motion for Extension"), (ECF No. 181);<sup>1</sup> and,
- (4) Goodman's Motion to Compel Plaintiff to Comply with Pretrial Order and *Sua Sponte* Order (the "Motion to Compel"), (ECF No. 185).

Plaintiffs and Negron responded to the Motion to Disqualify, (ECF Nos. 166, 169), and Goodman replied, (ECF No. 170). Goodman responded to the Motion *in Limine*. (ECF No. 174.) Plaintiffs failed to reply to Goodman's response and the time to do so has expired. Plaintiffs responded to the Motion to Compel. (ECF No. 187.) Goodman failed to reply to Plaintiffs' response and the time to do so has expired.

---

<sup>1</sup> On June 9, 2020, the Court dismissed Negron as a defendant in this matter. (ECF No. 194.) Because Negron brought the Motion for Extension only on behalf of herself, the Court will deny as moot the Motion for Extension.

process, and at worst, a conscious attempt by Counsel for Plaintiffs to evade this Court's Orders by refusing to confer with Mr. Goodman in good faith.<sup>14</sup> In addition, it now appears that Counsel for Plaintiffs may have failed to meet basic discovery obligations under both Rule 26 and this Court's Initial Pretrial Order.

The Court reiterates: "[f]ailure to comply with discovery rules and procedures could result in the Court imposing sanctions." (July 25, 2019 Mem. Op. 8.)

Considering the Parties continued failure to follow the Federal Rules, the Local Rules, and this Court's Orders, the Court will require the Parties to appear before the Court for a hearing on July 15, 2020, at 2:00 p.m. to Show Cause why sanctions should not issue. Mr. Biss, Mr. Steele, and Mr. Goodman shall appear in person.

At that time, the Parties will proffer to the Court: (1) two paper copies of all evidence that has been disclosed (with verification as to how and when it was disclosed) since the Initial Pretrial Conference on July 31, 2019; (2) two paper copies of all requests for evidence (with verification as to how and when it was requested), including but not limited to emails, interrogatories, or Rule 26 disclosures. Any verification shall be presented under penalty of perjury.

## **VI. Conclusion**

For the foregoing reasons, the Court will deny the Motion to Disqualify, (ECF No. 165), the Motion *in Limine*, (ECF No. 171), and the Motion to Compel, (ECF No. 185). The Court will deny as moot the Motion for Extension. (ECF No. 181.)

---

<sup>14</sup> The Court reminds Counsel for Plaintiffs that as an officer of the court, he shall "conduct and demean [himself] with dignity and propriety." Va. Loc. Civ. R. 83.1(J). Counsel for Plaintiffs has already been put on notice that failing to properly engage with a *pro se* defendant in the discovery process constitutes conduct unbefitting that office.

The Court will require Mr. Biss, Mr. Steele, and Mr. Goodman to SHOW CAUSE why sanctions should not issue during a hearing on July 15, 2020 at 2:00 p.m. in Courtroom 6100 of the Spottswood W. Robinson III and Robert R. Merhige, Jr. United States Courthouse. The Parties are hereby notified that any failure to comply with Federal or Local Rules, or from proper courtroom decorum, will result in sanctions, monetary or otherwise.

An appropriate order shall issue.

Date: July 2, 2020  
Richmond, Virginia

\_\_\_\_\_  
S/   
M. Herman Lauck  
United States District Judge

PRIO  
FLAT RA  
POSTAG



\$7.75  
PM 2-Day  
95603 0006  
Date of sale  
01/23/21  
06 255K  
11488544

ILY TO SEAL

# PRIORITY® MAIL

- Expected delivery date specified for domestic use.
- Most domestic shipments include up to \$50 of insurance (restrictions apply).\*
- USPS Tracking® included for domestic and many international destinations.
- Limited international insurance.\*\*
- When used internationally, a customs declaration form is required.

\*Insurance does not cover certain items. For details regarding claims exclusions see the Domestic Mail Manual at <http://pe.usps.com>.

\*\* See International Mail Manual at <http://pe.usps.com> for availability and limitations of coverage.

**FLAT RATE ENVELOPE**  
ONE RATE ■ ANY WEIGHT

**TRACKED ■ INSURED**



PS00001000014

EP14F May 2020  
OD: 12 1/2 x 9 1/2

To schedule free Package Pickup,  
scan the QR code.



USPS.COM/PICKUP

## FROM:

Movant  
D. G. SWEIGERT, C/O  
GENERAL DELIVERY  
ROUGH AND READY, CA  
95975  
[Spoliation-notice@mailbox.org](mailto:Spoliation-notice@mailbox.org)

**PRO SE**

PRO SE OFFICE, #200  
U.S. District Court  
500 Pearl Street  
New York, New York 10007-1312

**10007**

RECEIVED  
SDNY PRO SE OFFICE  
JAN 26 PM 3:01